

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

DANIEL HERNANDEZ,

Plaintiff,

v.

**KILOLO KIJAKAZI, Acting
Commissioner of Social Security,**

Defendant.

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CAUSE NO. EP-22-CV-306-KC-ATB

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE**

On this day, the Court considered the above-captioned case. Pursuant to Paragraph 2(c) of the Court’s May 1, 2012, Standing Order, this case was referred to United States Magistrate Judge Anne T. Berton. On August 4, 2023, the Magistrate Judge filed a Report and Recommendation (“R&R”), ECF No. 15, which recommended that the Court affirm the decision of the Commissioner of the Social Security Administration (“Commissioner”) denying Plaintiff’s application for disability insurance benefits and supplemental security income benefits. *Id.* at 1, 15.

Parties have fourteen days from service of a Report and Recommendation of a United States Magistrate Judge to file written objections. *See* 28 U.S.C. § 636(b)(1)(C).¹ Over fourteen days have elapsed since all parties were served with the R&R, and no objections have been filed. *See* R&R 15.

When parties do not file written objections, courts apply a “clearly erroneous, abuse of

¹ Federal district courts conduct de novo review of those portions of a report and recommendation to which a party has objected. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge . . . shall make a de novo determination of those portions of the report . . . to which objection is made . . .”).

discretion and contrary to law” standard of review to a report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (stating this standard of review “is appropriate only where there has been no objection to the magistrate’s ruling”); *Rodriguez v. Bowen*, 857 F.2d 275, 276–77 (5th Cir. 1988) (“[A] party is not entitled to de novo review of a magistrate’s finding and recommendations if objections are not raised in writing by the aggrieved party . . . after being served with a copy of the magistrate’s report.”), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1). After reviewing the R&R, the Court agrees with the Magistrate Judge’s proposed findings of fact and conclusions of law and finds they are neither clearly erroneous nor contrary to law. *See Wilson*, 864 F.2d at 1221.

Accordingly, the Court **ADOPTS** the R&R, ECF No. 15, in its entirety, and **ORDERS** that the Commissioner’s decision is **AFFIRMED**.

SO ORDERED.

SIGNED this 23rd day of August, 2023.



KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE